IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4271 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NITIN UMARSINGH BHANUSHALI

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MR. B.D. DESAI, A.P.P for Respondent No. 1

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 15/06/2001

ORAL JUDGEMENT

1. Rule. Mr. B.D. Desai, learned A.P.P. appears and waives service of notice of rule on behalf of

respondent-State.

2. By means of filing this application the applicant, Mr. Nitin Umarsingh Bhanushali, against whom Crime Register No. I - 0015/98 is registered with the Khawada Police Station for the offences punishable under Sections 302, 307, 329, 323, 143, 144, 149 and 333 of the Indian Penal Code, has sought for temporary bail for a period of three weeks on the ground of giving treatment to his ailing mother Kesarben Umarsingh Bhanushali who is aged about 85 years.

3. It is stated in the petition that she has been advised for Cardiac investigation like Angiography by Dr. Rakesh Gupta. On the basis of the said certificate this Court had earlier also granted temporary bail to the petitioner for a period of ten days. The treatment of Angiography could not be performed as there was no facility available in Bhuj and Kutch, and therefore, he had to surrender himself to the jail Authorities . It is stated by the petitioner that earlier also he was released on bail and every time he has surrendered himself in time. It is, therefore, prayed that the petitioner may be released on temporary bail for a period of three weeks.

4. I have heard learned Advocate Mr. E.E. Saiyed for the petitioner and Mr. B.D. Desai, learned A.P.P. for the respondent - State. On having perusal of the earlier orders and the Certificate dated 26th May, 2001 issued by Dr. Rakesh B. Gupta, it is clear that the petitioner's mother has been advised for the admission to V.S. Hospital for further cardiac investigation like Angiography. It is also not disputed by the learned A.P.P. that in the past, after his release on temporary bail, the petitioner had surrendered himself in time. In view of the aforesaid state of affairs, I am of the opinion that the petitioner deserves to be released on temporary bail for the purpose of giving treatment to his ailing mother aged about 85 years, who is advised for a cardiac investigation like Angiography.

5. In the result, the petition succeeds and accordingly it is allowed. The petitioner is ordered to be released on temporary bail on his depositing an amount Rs. 5000/- with the jail Authorities for a period commencing from June 16th, 2001 to July 7th, 2001 on the following conditions:-

(i) He shall not tamper with the prosecution evidence in any manner.

(ii) He shall not try to meet with the complainant on any of the prosecution witness.

(iii) He shall maintain law and order throughout the above period.

(iv) He shall not leave the local limits of Gujarat State during the aforesaid period.

(v) He shall surrender to jail Authority on July 7th, 2001 latest by 5 p.m. without fail.

6. The jail Authority shall refund the amount of Rs. 5,000/- deposited by the petitioner on his surrendering to jail Authority.

7. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

(A.M. KAPADIA,J.)

siji